

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 5, 2004**

**IN RE:**

**PETITION FOR APPROVAL OF THE  
INTERCONNECTION AGREEMENT AND  
AMENDMENT THERETO BETWEEN  
BELLSOUTH TELECOMMUNICATIONS,  
INC. AND TALK AMERICA, INC.**

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**DOCKET NO.  
04-00238**

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**ORDER APPROVING  
INTERCONNECTION AGREEMENT AND FIRST AMENDMENT**

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This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 27, 2004, to consider, pursuant to 47 U.S.C § 252, the Petition for approval of the interconnection agreement and the first amendment thereto negotiated between BellSouth Telecommunications, Inc. and Talk America, Inc , filed on August 9, 2004

Based upon a review of the agreement and the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-

104

- 2) The agreement and amendment are in the public interest as they provide consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.

3) The agreement and amendment are not discriminatory to telecommunications service providers that are not parties thereto.

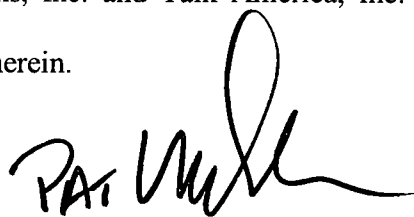
4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>1</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the agreement and the amendment are consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

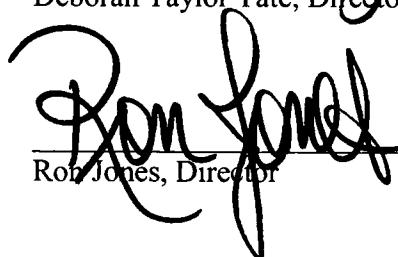
6) The agreement and amendment are reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the interconnection agreement and first amendment thereto negotiated between BellSouth Telecommunications, Inc. and Talk America, Inc. is approved and is subject to the review of the Authority as provided herein.

  
Pat Miller, Chairman

  
Deborah Taylor Tate, Director

  
Ron Jones, Director

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<sup>1</sup> See 47 U.S.C. § 252(e)(2)(B)